

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 PA-01 SP-02 SS-15 TRSE-00 HA-05
ACDA-12 NSCE-00 SSO-00 ICAE-00 INRE-00 IO-13 /080 W
-----098423 191810Z /44

O R 191743Z JUL 78 ZFF 4
FM AMEMBASSY BONN
TO SECSTATE WASHDC NIACT IMMEDIATE 0422
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 02 BONN 13231

E.O. 11652: GDS
TAGS: PGOV, BQG
SUBJECT: ALLIED DEMARCHE ON HUEBNER SENTENCING

REFS: (A) BONN 12804 (B) STATE 177958

BEGIN SUMMARY: THE UK HAS YIELDED TO STRONG FRG
INSISTENCE AND JOINED A CONSENSUS FAVORING AN ALLIED
DEMARCHE TO THE SOVIETS ON THE HUEBNER CASE. THE
BONN GROUP HAS APPROVED AD REF TEXTS OF THE DEMARCHE
AND AN ACCOMPANYING PRESS STATEMENT. ACTION REQUESTED:
SEE PARAGRAPH 7. END SUMMARY

1. AT THE JULY 18 MEETING, THE BONN GROUP APPROVED
AD REF TEXTS OF THE DEMARCHE THE FRG REQUESTED ON
THE HUEBNER CASE (REF A), ALONG WITH A PRESS STATEMENT
ON THE DEMARCHE. THE UK REP (HARPER) NOTED THAT LONDON
STILL HAD RESERVATIONS ABOUT THE WISDOM OF MAKING
A DEMARCHE BUT, DUE TO THE FRG'S STRONG FEELINGS
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ABOUT THE MATTER, THE UK COULD AGREE TO GO ALONG
WITH THE CONSENSUS.

2. HARPER ALSO STRESSED THAT LONDON COULD AGREE
TO ISSUING A PRESS STATEMENT ONLY ON THE UNDERSTAND-
ING THAT THE HUEBNER AFFAIR WAS BEING TREATED AS AN
EXCEPTIONAL CASE. THE UK CONTINUED TO BELIEVE THAT

CONFIDENTIALITY SHOULD BE THE RULE IN OUR RELATIONS WITH THE SOVIETS. ALL BONN GROUP REPS SUPPORTED THE CONFIDENTIALITY PRINCIPLE.

3. FOLLOWING IS THE TEXT OF THE ALLIED DEMARCHE AS AGREED BY THE BONN GROUP:

BEGIN TEXT. ON JULY 7, 1978, THE "STADTGERICHT BERLIN" CONVICTED NICO HUEBNER, A RESIDENT OF THE EASTERN SECTOR OF BERLIN, OF THE ALLEGED CRIME OF VIOLATING SECTION 32 OF THE GDR'S WEHRPFLICHTGESETZ.

ON BEHALF OF THE THREE POWERS, I AM INSTRUCTED TO RECALL THE TERMS OF THE DEMARCHE MADE BY THE CHAIRMAN POLITICAL ADVISER ON MAY 2, 1978. THE POSITION OF THE THREE POWERS REMAINS UNCHANGED. THE QUADRIPARTITE LEGISLATION PROVIDING FOR THE DEMILITARIZATION OF THE WHOLE OF BERLIN REMAINS IN FORCE. AS STATED BY THE THREE POWERS SINCE 1962, THE EAST GERMAN LAW MAKING RESIDENTS OF THE EASTERN SECTOR SUBJECT TO COMPULSORY MILITARY SERVICE IS A VIOLATION OF THIS QUADRIPARTITE LEGISLATION. CONSEQUENTLY, THE CONVICTION OF MR. HUEBNER FOR AN ALLEGED VIOLATION OF SECTION 32 OF THE WEHRPFLICHTGESETZ IS CONTRARY TO THE LEGISLATION PROVIDING FOR THE DEMILITARIZED STATUS OF BERLIN AND A VIOLATION OF THE QUADRIPARTITE AGREEMENT

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OF SEPTEMBER 3, 1971.

IN THE LIGHT OF THE FOREGOING, THE THREE POWERS REQUEST THE SOVIET AUTHORITIES TO REVIEW MR. HUEBNER'S CONVICTION AND SENTENCE AND TO ENSURE THAT THE DEMILITARIZED STATUS OF BERLIN IS OBSERVED IN THE EASTERN SECTOR OF THE CITY. END TEXT

4. FOLLOWING IS THE TEXT OF THE PRESS STATEMENT:

BEGIN TEXT. WITH REGARD TO THE SENTENCE IMPOSED ON NICO HUEBNER BY THE "STADTGERICHT BERLIN" ON JULY 7, 1978, THE THREE POWERS HAVE AGAIN MADE CLEAR TO THE SOVIET EMBASSY THEIR VIEWS ON THE DEMILITARIZED STATUS OF BERLIN. END TEXT.

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5. THE FCO HAS SINCE PROPOSED THE FOLLOWING CHANGES
TO THE TEXT OF THE DEMARCHE:

-- DELETE THE PHRASE "... AND VIOLATION OF THE
QUADRIpartite AGREEMENT OF SEPTEMBER 3, 1971."
(REASON: THE GDR LEGISLATION WAS ENACTED IN 1962,
PRIOR TO THE QA. THEREFORE IT CANNOT BE SAID TO
VIOLATE THE QA. THE FRENCH DISAGREE, SAYING THAT THE
COMMANDANT'S LETTER OF 1962 MAINTAINED THE ALLIED
LEGAL POSITION, WHICH HAS REMAINED THE SAME, AND THAT
THIS TOO WAS PART OF THE "EXISTING SITUATION.")

-- REDRAFT THE LAST PARAGRAPH OF THE DEMARCHE AS FOLLOWS:
"IN THE LIGHT OF THE FOREGOING, THE THREE POWERS
TRUST THAT MR. HUEBNER'S CONVICTION
AND SENTENCE IN RESPECT OF THIS CHARGE WILL BE REVIEWED."
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(REASON: THE ALLIES SHOULD NOT DEBASE THE CURRENCY
OF ALLIED DEMARCHES BY MAKING REQUESTS THAT WILL NOT BE
FULFILLED.)

6. WE AGREE WITH THE FRENCH ON THE LEGAL POINT
REGARDING THE QA BUT DO NOT BELIEVE IT ESSENTIAL
TO MENTION THE QA IN THE DEMARCHE. IN THE INTEREST
OF (HOPEFULLY) PROMPT AGREEMENT, WE RECOMMEND THAT WE
BE AUTHORIZED TO ACCEPT EITHER THE ORIGINAL AD REF
VERSION OR THE UK CHANGES RATHER THAN DELAY THE DEMARCHE
AND PRESS STATEMENT UNTIL THE HUEBNER CASE GROWS COLD.
THE FRG SHARES THIS VIEW.

7. ACTION REQUESTED: DEPARTMENT'S GUIDANCE.
STOESSEL

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